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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,027

12/22/2005

Paul Charles Claydon

T4515-16168US01

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181 7590 11/18/2011  
MILES & STOCKBRIDGE PC  
1751 PINNACLE DRIVE  
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EXAMINER

KIRSCH, ANDREW THOMAS

ART UNIT

PAPER NUMBER

3781

NOTIFICATION DATE

DELIVERY MODE

11/18/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com  
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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/31/2011 have been fully considered but they are not persuasive.
2. Applicant argues on pages 3 and 4 of the Remarks that Ball et al. provides no teaching of "reducing" or "reforming" the seal surface angle. However, in addition to the response to the previous arguments of record, it is clear that one of ordinary skill in the art at the time of the invention choosing to benefit from the conditions from the teachings of Ball et al. and Ramsey would immediately find it necessary to reform the angle from that of Ramsey to that of Ball et al. as an obvious transition from one known configuration to another. Simply choosing to benefit from two known configurations with known advantages by utilizing each in circumstances in which each is most beneficial is well within the skill of one of ordinary skill in the art at the time of the invention. Therefore, a method step taking advantage of adjusting the seal surface to different angles at times when the internal pressure is such that the invention would benefit from the different angles is rendered obvious to one of ordinary skill in the art.
3. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

4. In response to applicant's argument that Ball is nonanalogous art as not being directed to the control of in-can pressure, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, paragraph 0005 of Ball addresses pressure differentials resulting from retorting processes and how bond strength at a given seal angle can be reduced.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANDREW T KIRSCH/  
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